

**CITY OF WEST DES MOINES
PLAN AND ZONING COMMISSION COMMUNICATION**

Meeting Date: October 12, 2020

Item: Amendment to City Code –Title 9, *Zoning*, Chapter 7, *Setback and Bulk Density Regulations*, to modify when the Average Front Yard Setback requirement is applied – City Initiated (AO-004874-2020)

Requested Action: Recommend Approval of Amendment to City Code

Case Advisor: Lynne Twedt

Applicant's Request: City Staff requests an amendment to City Code, Title 9, "*Zoning*", Chapter 7 "*Setback and Bulk Density Regulations*", Section 4, "*Setback and Density Regulations*", Table 7.2, "*Setbacks- Standard Lots*", Note #1 and Table 7.5, "*Detached Accessory Structures*", Note #1 to modify when the application of average front yard setback provision is applied.

Current City Code states the following for this note:

In any existing platted property where the average front yard setback is different than that required for the specific zoning district, the front yard setback for the subject lot is equal to the average of the front yard depths of any existing immediate adjacent dwellings on the same side of the street including the existing dwelling of the subject property. Resulting front yard setback shall not be less than the minimum required side yard setback for the zoning district. Front yard setback measured from the face of any garage accessed from the street will be a minimum of 25 feet regardless of the averaged front yard depth. If the overall depth of the lot from the subject front yard is 50 feet or less, the setback for any garage accessed from the street will be a minimum of 20 feet.

The provision applies in developed residential areas when primary (i.e. dwelling) or detached accessory structures have been located at a different setback than is required by City Code and a new structure or expansion to a structure is proposed to be constructed. The provision averages the setback of existing structures on the subject lot proposing the improvement and structures on the lot on each side of the subject lot to determine a new allowable front setback line. It is assumed that the intent of the provision was to respect the current setback context of structures along the street front and prevent the construction of a structure in front of another thus blocking neighboring properties views of the street.

There currently is no provision to factor in situational characteristics of the site in applying the requirement. The provision is applied regardless of zoning district, lot width or distance to structures on the adjoining properties. Staff feels that both lot width and the separation distance between structures greatly impacts whether there is a perceived change in the context of the street front, as well as impact on a neighboring dwelling. Staff is recommending that language be added to code to exclude application of the average front yard provision when structures on adjacent lots are 75' or greater from a proposed improvement. Attachment 'A' illustrates how this distance will be measured and clarifies when this amendment would apply and would not apply.

City Council Subcommittee: This matter of average front yard setbacks was presented to the Development and Planning City Council Subcommittee at the August 17, 2020 meeting. Staff explained concerns of the potential change to the view from neighboring properties with allowing

a structure to be closer to the street than are the neighboring structures. Staff explained that distance between the structures greatly affects the impact on the view from one structure to another. The Subcommittee indicated that they were not comfortable with allowing structures in front of adjoining homes on narrower lots, but they were comfortable with it on larger lots when the structures were farther apart. The Subcommittee indicated support of the proposed amendment.

Staff Review and Comment: There are no outstanding issues. Staff would note that there are limited situations across the City in which this distance exemption would apply to the average front yard setback provision.

Noticing Information: On October 3, 2020, notice for the October 12, 2020, Plan and Zoning Commission and October 19, 2020, City Council Public Hearings on this project was published in the Des Moines Register Community Section.

Staff Recommendation and Conditions of Approval: The City Council is recommended to approve the amendment to City Code Title 9, "*Zoning*", Chapter 7, "*Setback and Bulk Density Regulations*", Section 4, "*Setback and Density Regulations*", Tables 7.2 and Table 7.5 Note #1 to not require application of the average front yard provision when structures on adjacent lots are 75' or greater from a structure looking to make an improvement.

ATTACHMENTS:

Attachment A -	Illustration
Attachment B -	Plan and Zoning Commission Resolution
Exhibit A -	Conditions of Approval
Attachment C -	Proposed Ordinance Amendment



Structure A = setback 76' from front lot line; Structure B = 114' & Structure C = 104' ... Average front setback = 98'

Average Front Yard Setback Provision would apply as proposed addition is closer than 75' to neighbor A.
Addition could only be built up to a 98' setback from front lot line.



Average Front Yard Setback Provision would not apply as addition is greater than 75' to neighboring structures A & B.
Addition could be built up to zoning setback line (50' from front lot line).

RESOLUTION NO. PZC-20-066

A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, IOWA, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN AMENDMENT TO CITY CODE TITLE 9, "ZONING", CHAPTER 7, "SETBACK AND BULK DENSITY REGULATIONS", SECTION 4, "SETBACK AND DENSITY REGULATIONS", TABLES 7.2 AND TABLE 7.5 NOTE #1 TO MODIFY WHEN THE AVERAGE FRONT YARD SETBACK REQUIREMENT IS APPLIED

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, City Staff requests approval of an Amendment City Code Title 9, "Zoning", Chapter 7, "Setback and Bulk Density Regulations", Section 4, "Setback and Density Regulations", Tables 7.2 and Table 7.5 Note #1 to not require application of the average front yard provision when structures on adjacent lots are 75' or greater from a structure proposing to make an improvement; and

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which are made a part of this record and herein incorporated by reference; and

WHEREAS, on October 12, 2020, this Commission held a duly-noticed meeting to consider the Amendment to City Code (AO-004874-2020).

NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings, for approval, in the staff report, dated October 12, 2020, or as amended orally at the Plan and Zoning Commission hearing of October 12, 2020, are adopted.

SECTION 2. The AMENDMENT TO CITY CODE (AO-004874-2020) to amend City Code Title 9, "Zoning", Chapter 7, "Setback And Bulk Density Regulations", Section 4, "Setback And Density Regulations", Tables 7.2 and Table 7.5 Note #1 to modify when the average front yard setback requirement is applied is recommended to the City Council for approval, subject to compliance with all the conditions in the staff report, dated October 12, 2020, including conditions added at the meeting, and attached hereto as Exhibit "A". Violation of any such conditions shall be grounds for revocation of the permit, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on October 12, 2020.

Erica Andersen, Chair
Plan and Zoning Commission

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on October 12, 2020, by the following vote:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

ATTEST:

Recording Secretary

Exhibit A
Conditions of Approval
None

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, BY AMENDING TITLE 9, "ZONING", CHAPTER 7, "SETBACK AND BULK DENSITY REGULATIONS", SECTION 4, "SETBACK AND DENSITY REGULATIONS", TABLES 7.2 AND TABLE 7.5 NOTE #1 TO MODIFY WHEN THE AVERAGE FRONT YARD SETBACK REQUIREMENT IS APPLIED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1: Title 9, "Zoning", Chapter 7, "Setback and Bulk Density Regulations", Section 4, "Setback and Density Regulations", Table 7.2, "Setbacks - Standard Lots", Note #1 and Table 7.5, "Detached Accessory Structures", Note #1 is hereby amended by adding the text in Bold Italic letters

Notes:

1. In any existing platted property where the average front yard setback is different than that required for the specific zoning district, the front yard setback for the subject lot is equal to the average of the front yard depths of any existing immediate adjacent dwellings on the same side of the street including the existing dwelling of the subject property. Resulting front yard setback shall not be less than the minimum required side yard setback for the zoning district. Front yard setback measured from the face of any garage accessed from the street will be a minimum of 25 feet regardless of the averaged front yard depth. If the overall depth of the lot from the subject front yard is 50 feet or less, the setback for any garage accessed from the street will be a minimum of 20 feet. ***The average front yard setback requirement shall not be applicable in situations in which the greatest extent of an improvement made on the subject lot is seventy-five feet (75') or greater from the closest element of a structure on both of the lots on either side of the subject lot.***

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provision of this Ordinance are hereby repealed.

SECTION 3. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase or part of the Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the

validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

SECTION 4. VIOLATIONS AND PENALTIES. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Title 1, Chapter 4, Section 1 of the City Code of the City of West Des Moines, Iowa.

SECTION 5. OTHER REMEDIES. In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

SECTION 6. EFFECTIVE DATE. This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2020, and approved this _____ day of _____, 2020.

Steve Gaer, Mayor

ATTEST:

Ryan Jacobson, City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the _____ day of _____, 2020.

Ryan Jacobson, City Clerk